



DEPARTMENT OF VETERANS AFFAIRS

8320-01

38 CFR Part 17

RIN 2900-AO47

Authorization for Non-VA Medical Services; Withdrawal

AGENCY: Department of Veterans Affairs.

ACTION: Withdrawal of direct final rule.

SUMMARY: The Department of Veterans Affairs (VA) published a direct final rule in the Federal Register on November 28, 2012, that would have amended its regulations regarding payment by VA for medical services under VA's statutory authority to provide non-VA medical care. VA sought to remove an outdated regulatory limitation on veterans' eligibility to be referred for non-VA medical care. On the same date, VA also published a companion proposed rule containing the same amendments as the direct final rule. Because VA received adverse comments on this action, we are withdrawing the direct final rule. In a companion document in the Federal Register, VA is publishing a final rule that addresses comments received on the proposed and direct final rules.

DATES: The direct final rule published on November 28, 2013 (77 FR 70893), is withdrawn as of [Insert date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Lisa Brown, Chief, Policy Management Department, Department of Veterans Affairs, Chief Business Office, Purchased Care,

3773 Cherry Creek North Drive, Suite 450, Denver, CO 80209 at (303) 331-7829. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: In a direct final rule published in the Federal Register on November 28, 2012, 77 FR 70893, VA would have amended its regulations authorizing non-VA medical care effective January 28, 2013. Under the non-VA medical care authority in 38 U.S.C. 1703, VA may provide certain hospital care (inpatient care) and medical services (outpatient care) for eligible veterans when VA facilities are not capable of providing necessary treatment due to geographical inaccessibility or are not capable of providing the services needed. The direct final rule would have revised VA's existing regulation, at 38 CFR 17.52(a)(2)(ii), to remove a limitation that barred VA from authorizing non-VA medical services for certain veterans who had not previously been furnished VA hospital care. Without this revision, these veterans were eligible for non-VA medical services under § 17.52(a)(2)(ii) to complete treatment of a nonservice-connected disability only if they had received VA hospital care for that disability.

VA published a companion proposed rule on the same date, at 77 FR 70967, proposing the same amendments as the direct final rule. The direct final rule and proposed rule each provided a 30-day comment period that ended on December 28, 2012. VA received comments on the proposed rule and direct final rule, including some adverse comments. VA is therefore withdrawing the direct final rule, "Authorization for Non-VA Medical Services," RIN 2900-AO47, which did not become effective on January 28, 2013 because VA received adverse comments on the proposed rule and direct final

rule during the 30-day comment period. VA is publishing a final rulemaking, “Authorization for Non-VA Medical Services,” RIN 2900-AO46, in this issue of the Federal Register that addresses comments received on both the direct final rule and the proposed rule. These actions are consistent with the procedures stated in the direct final rule and the proposed rule.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, Department of Veterans Affairs, approved this document on November 6, 2013 for publication.

Dated: December 4, 2013.

Robert C. McFetridge,
Director, Regulation Policy and Management,
Office of the General Counsel,
Department of Veterans Affairs.

